

Board of Selectmen
Extension 109
Town Administrator
Extension 109
Town Accountant
Extension 120
Town Clerk
Extension 114
Tax Collector
Extension 113
Treasurer
Extension 112 or 110
Board of Assessors
Extension 111
Land Use Office
Extension 117
Planning Board
Extension 121
Conservation Commission
Extension 115



TOWN OF ASHBURNHAM
TOWN CLERK
Town Hall, 32 Main Street
Ashburnham, Massachusetts 01430

Animal Control
Board of Health
Building Commission
Conservation Commission
Council on Aging
Cultural Council
Electrical Inspector
Gas & Plumbing Inspector
Historical Commission
Municipal Planning
Parks & Recreation
Planning Board
Zoning Board of Appeals

PHONE: (978)-827-4100
FAX: (978) 827-4105

Submission #3-Final Version of By-Law as amended -Article 17
Annual Town Meeting-May 6, 2014

5.20 REGISTERED MARIJUANA DISPENSARIES

5.20.1 Purposes

- a. To provide for the limited establishment of Registered Marijuana Dispensaries (RMD) in appropriate places and under strict conditions in accordance with applicable laws.
- b. To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said RMDs.
- c. To regulate the siting, design, placement, safety, monitoring, modification, and removal of RMDs.
- d. To limit the overall number of RMDs in Ashburnham to what is essential to serve the public convenience and necessity.

5.20.2 Applicability

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as an RMD under this Section 5.20.

If any provision of this Section or the application of any provision of this Section to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and shall remain in effect.

5.20.3 Definitions

Registered Marijuana Dispensary: a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possess, processes

(including development of related projects such as edible Marijuana-Infused Products (MIP), tinctures, aerosols oils, or ointments, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of Qualifying Patients in the treatment of Debilitating Medical Conditions.

Marijuana: Shall be defined as "marijuana" under Chapter 94C of the Massachusetts General Laws and 105 Code of Massachusetts Regulations (CMR)725.004

5.20.4 Eligible Locations for Registered Marijuana Dispensaries

An RMD shall be permitted only in the RMD Use Overlay District by special permit by the Special Permit Granting Authority (SPGA) in accordance with the provisions of M.G.L. c. 40A. §9, this Section 5.20, Section 5.10 (Site Plan Review) and the general Special Permit provisions of Section 6.42 of these bylaws.

5.20.5 General Requirements and Conditions for all Registered Marijuana Dispensaries.

- a. No RMD shall have a gross floor area in excess of 2,500 square feet. An RMD may be located in buildings that exceed 2,500 square feet of floor area, provided that the gross floor area of the RMD shall not exceed 2,500 square feet.
- b. All RMD shall be contained within a building or structure, except as otherwise permitted by the Department of Public Health Regulations at 105 CMR 725.000, et seq.
- c. The hours of operation of a RMD shall be set by the SPGA, but in no event shall RMD's be open and/or operating between the hours of 9:00 PM and 8:00 AM.
- d. No special permit for an RMD shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further, no special permit for a RMD shall be issued to a business or nonprofit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.
- e. No special permit for an RMD shall be issued to a person who has been convicted of a violation of Massachusetts General Law

Chapter 119, Section 63 or MGL. Chapter 272, Section 28. Further, no special permit for an RMD shall be issued to a business or non-profit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of MGL Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.

- f. No RMD shall be located within 100 feet of a residential zoning district.
- g. No RMD shall be located within 500 feet of any of the following:
 - 1) Any school attended by children under the age of 18, any day care center, or any other facility where children commonly congregate such as, but not limited to, playgrounds, athletic fields, or other similar facilities.
 - 2) Any drug or alcohol rehabilitation facility;
 - 3) Any correctional facility, half-way house, or similar facility; or
 - 4) Any other RMD.
- h. No smoking or burning of marijuana or marijuana-related products shall be permitted on the premises of an RMD.
- i. No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- j. Signage for an RMD shall be limited to one exterior sign which shall not be directly illuminated and shall otherwise comply with the dimensional requirements of the underlying zoning district, and the applicable regulations promulgated by the DPH in 105 CMR 725.105.L.
- k. All RMDs shall provide the SPGA with the name, phone number and email address of an on-site community relations staff person designated by the RMD to be contacted by town officials in the event of any operating problems associated with the RMD.
- l. All employees of an RMD shall be at least 18 years of age.
- m. No one under the age of 18 years old shall be permitted on the premises of an RMD during hours of operation unless that person is a qualified patient or caregiver with a valid registration card as set forth in DPH regulations 105 CMR 725.000 et seq.

5.20.6 RMD Special Permit Requirements

- a. Special permits granted under this Section shall be limited to the

applicant for the duration of the applicant's ownership and/or use of the premises as an RMD. A special permit may be transferred only upon approval of the SPGA in the form of an amendment to the special permit pursuant to all applicable provisions of M.G.L. c. 40A and the town's zoning bylaws.

- b. A special permit for an RMD may be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - 1) Cultivation of Marijuana for Medical Use (horticulture);
 - 2) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - 3) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
 - 4) Wholesale sale of Marijuana for Medical Use to other RMDs as permitted by the DPH regulations found in 105 CMR 725.000.
- c. In addition to the application requirements set forth in this Section and Section 6.42 of the zoning bylaws, a special permit application for an RMD shall include the following:
 - 1) A statement from the Applicant under oath, setting forth the following information:
 - a) The name and address of each owner, manager, member, partner and employee of the RMD, and a certification that the application conforms is to Sections 5.20.5 above;
 - b) The source of all marijuana that will be sold or distributed at the RMD;
 - c) The source of all marijuana that will be cultivated, processed, and/or packaged at the RMD;
 - d) The quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the RMD; and
 - e) If marijuana is to be cultivated, processed, and/or packaged at the RMD, the name and address of each purchaser of said marijuana.
 - 2) A copy of the Applicant's current Articles of Organization or Articles of Incorporation, a current Certificate of Legal Existence, from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development and operation of the RMD as proposed in the application;
 - 3) Copies of all licenses and permits issued by the Commonwealth of

Massachusetts and any of its agencies for the RMD;

- 4) Evidence of the Applicant's right to use the site of the RMD as an RMD, such as a deed, lease, or purchase and sale Agreement;
- 5) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- 6) A market study demonstrating sufficient demand for the Marijuana for Medical Use proposed to be sold or distributed by the RMD;
- 7) Proposed security measures for the RMD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft in accordance with 105 CMR 725.110.
- 8) Resume(s) of the Applicant and all members of the RMDs management, including company history, references, and relevant experience.

5.20.7 Required Findings.

The SPGA may issue a special permit for an RMD upon finding that:

- a. The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b. That the project is compatible with the immediately surrounding uses. In determining same, the Special permit Granting Authority shall consider how the proposed use fits in with the surrounding uses, and shall consider traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).
- c. The RMD is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
- d. In the case of retail sale or distribution, the RMD is serving a measurable demand for Marijuana for Medical Use that is currently unmet within the municipality;
- e. The applicant has not provided materially false documents or testimony; and
- f. The applicant has satisfied all of the conditions and requirements of

this Bylaw.

5.20.8 Annual Reporting.

Every RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to the Special Permit Granting Authority and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the RMD and/or its owners, and certifying that answers to each of the questions set forth under Sections 5.20.6.C of this bylaw for the preceding calendar year, as well as the RMDs good faith estimate of the same information for the ensuing calendar year.

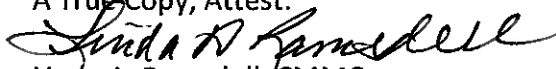
5.20.9 Waivers

A waiver of strict compliance from these Rules and Regulations may be granted if the SPGA determines that such a waiver is in the public interest and not inconsistent with the Zoning Bylaw. All requests shall identify the provision or provisions of the regulations from which relief is sought. The request shall also include a statement explaining why the applicant thinks that granting a waiver would be in the public interest and not inconsistent with the purpose and intent of these rules and regulations and Zoning Bylaw.

5.20.10 Violations

Any violation of this Section, the special permit issued hereunder, or any suspension or revocation of any license or permit issued by the Commonwealth of Massachusetts for the RMD shall be grounds for revocation or suspension of the special permit issued under this Section in accordance with M.G.L. c. 40A as may be applicable.

A True Copy, Attest:



Linda A. Ramsdell, CMMC

Town Clerk

